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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/582,292	06/23/2000	VINCENT LE GUEN	Q59354	1515

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WASHINGTON, DC 20037-3213

EXAMINER

NGO, LIEN M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 10/09/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/582,292

Applicant(s)

LE GUEN, VINCENT

Examiner

LIEN TM NGO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 18
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Jakobsen (4,721,223).

In regard to claim 1, Jakobsen discloses, in figs. 5 and 13, a container having a cylindrical wall 10, and a petaloid-type base. Said base comprises a convex wall and outgrowth member (foot supports) The convex wall comprises a hemispherical area and a peripheral marginal area having a curve with an inflection, wherein the inflection is a change in curvature from a concave curve to a convex curve. (see fig. 13). The base wall and the marginal area as well as the cylindrical wall and the peripheral area are linked in an almost tangential manner.

In regard to claim 2 and 3, the outgrowth members are linked with the hemispherical wall in a roughly tangentially member in immediate proximity (see figs. 1-5)

In regard to claim 4, it is clear from fig. 4 that the curve radius of the hemispherical wall is between 80%-120% of the radius of the cylindrical wall.

In regard to claims 5-7, the container further comprises a clearance , and a support surface The top end of the members is linked with the cylindrical wall in an almost tangential member

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(see figs. 1-5 and 13). The container further comprises a shoulder 2, a collar and a neck 1 (see fig. 12).

3. Claims 1, 5, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Motill (4,368,825).

In regard to claim 1, Motill discloses, in figs. 3, 7, 9, and see the attachment, a container having a cylindrical wall 3, and a petaloid -type base (A-A). Said base comprises a convex wall (C-C) and outgrowth member 7. The convex wall comprises a hemispherical area (C-C) and a peripheral marginal area (A-C) having a curve (AB; BC) with an inflection B, and wherein the inflection is a change in curvature from a concave curve to a convex curve. The base wall and the marginal area as well as the cylindrical wall and the peripheral area are linked in an almost tangential manner (see point C and A).

In regard to claims 5, 6 and 7, the container further comprises a clearance (under point D), and a support surface (foot 7). The top end of the members is linked with the cylindrical wall in an almost tangential manner (at point A). The container further comprises a shoulder 2, a collar and a neck 1.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jakobsen. To the degree it can be argued that Jakobsen does not disclose the curve radius of the hemispherical wall being between 80%- 120% of the radius of the cylindrical wall, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the curve radius of the hemispherical wall of Jakobsen having a range as claimed, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Matsuno et al. (5,906,286) teach a plastic bottle support base having a petaloid shape.

### ***Response to Arguments***

7. Applicant's arguments filed 7/24/03 have been fully considered but they are not persuasive.

Applicant argues that Jakobsen does not disclose a container having a petaloid-shaped base, wherein the base comprising a convex wall and outgrowth members. However, that is not found convincing because Jakobsen discloses, in figs.5, a side sectional view illustrating a portion of container base having a convex wall and outgrowth members. A such side sectional view of

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the plastic bottle base is well known in the art to present for a petaloid-shaped base as disclosed in Matsuno et al. Patent no. 5,906,286, in fig. 1.

Applicant argues that Motill does not disclose “the base wall is hemispherical, except for a peripheral marginal linking area with the cylindrical wall”. However, that is not found convincing because Motill discloses, in fig 7, see attachment, examiner considers section A-C being a peripheral marginal linking area with the cylindrical wall, wherein point B is an inflection which is a change from a concave curve to a convex curve; and section C-C is the hemispherical base wall.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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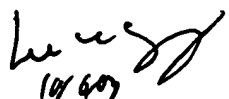
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Ngo whose telephone number is (703) 305-0294. The examiner can normally be reached Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful. The examiner's supervisor, Lee Young, can be reached at (703)308-2572. The Group FAX number is (703) 305-3579.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 308-1148.

  
Lien Ngo

October 1, 2003

  
LEE YOUNG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700